

AMENDMENTS

Please amend the application as follows:

Add the following new claim:

29. (New) A method for increasing a load capacity of an erected guyed tower, comprising the steps of:

al erecting a pole tower within an inner region of said guyed tower; and
attaching said pole tower to a foundation.

REMARKS

This is a full and timely response to the non-final Office Action of August 16, 2002.

Reexamination, reconsideration, and allowance of the application and all presently pending claims are respectfully requested.

Upon entry of this First Response, claims 1-29 are pending in this application, and 29 is newly added. It is believed that the addition of claim 29 adds no new matter to the present application.

Response to §102 Rejections

A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. See, e.g., *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983).

Claim 1

Claim 1 presently stands rejected under 35 U.S.C. §102 as allegedly being anticipated by *Pennell* (U.S. Patent No. 5,028,566). Claim 1 reads as follows:

1. A system for supporting wireless communication equipment, comprising:
a foundation;
a guyed tower fixedly attached to said foundation; and
a pole tower fixedly attached to said foundation and *extending through a middle region of said guyed tower.* (Emphasis added).

Applicant respectfully asserts that *Pennell* does not disclose each element of pending claim 1. In particular, *Pennell* fails to disclose at least the features of claim 1 highlighted hereinabove, and the rejection of claim 1 is, therefore, improper.

In rejecting claim 1, it is asserted in the Office Action that:

“Claims 1, 3-11, and 13-18 are rejected under 35 U.S.C. 102(e) as being anticipated by *Pennell et al.* (‘566). *Pennell* teaches a system having a foundation or footing (column 5, line 30), a guyed tower attached to the foundation/footing (column 5, line 35), and a pole tower or absorbing means (central pole in Figure 1) attached to the foundation/footing and extending through the middle region of the tower.”

Applicant respectfully traverses any assertion that *Pennell* discloses the use of both a guyed tower and a pole tower for a single embodiment. In particular, *Pennell* discloses an aerial tower 15, which is described as being a single pole tower for one embodiment that is depicted by FIG. 1. See FIG. 1 and col. 5, lines 30-32 (“Referring to FIG. 1, an aerial tower 15, also referred to as a monopole or simply a pole is shown...”). *Pennell* further discloses that the “aerial tower 15 may be of any conventional design at least including hollow tubular steel columns 17 through which communication wiring is housed between a top end and lower end of the tower 15 and self supporting and guyed towers.” Col. 5, lines 32-37. Applicant asserts that the foregoing statement

should not be read as disclosing the use of a guyed tower in addition to the single pole tower shown by FIG. 1 for any single embodiment. Instead, the foregoing statement should be read as disclosing, for some embodiments, the use of a guyed tower in lieu of the self supporting single pole tower shown by FIG. 1.

In this regard, *Pennell* apparently pertains to an omni-directional platform that may be attached to aerial towers 15, such as single pole towers or guyed towers. In a first embodiment shown by FIG. 2, the omni-directional platform is configured for attachment to a pole tower, such as the single pole tower depicted by FIG. 1. Indeed, the omni-directional platform comprises a mounting flange 35, which may be fit around the periphery of the single pole tower shown by FIG. 1. However, there is nothing in *Pennell* to indicate that a guyed tower is present in such an embodiment.

Further, as suggested by the text at col. 5, lines 32-37, it is possible for the aerial tower 15 to be comprised of a guyed tower rather than a self supporting single pole tower. For such embodiments, the omni-directional platform is apparently adapted for attachment to a guyed tower rather than a single pole tower. In particular, FIG. 9 depicts an omni-directional platform configured for use with a guyed tower. See col. 5, lines 4-5. Note that the embodiment depicted by FIG. 9 does not comprise a mounting flange 35 as there is presumably no single pole tower to which a mounting flange 35 may be attached in such an embodiment.

Moreover, *Pennell* appears to disclose an omni-directional platform that may be adapted for attachment to a single pole tower or to a guyed tower. However, there is nothing in *Pennell* to disclose or suggest an embodiment where a pole tower resides within a guyed tower. Accordingly,

Pennell fails to disclose at least the features of claim 1 highlighted hereinabove, and the rejection of claim 1 should be withdrawn.

Claims 2-10

Claim 3-10 presently stand rejected in the Office Action under 35 U.S.C. §102 as allegedly being anticipated by *Pennell*. Further, claim 2 presently stands rejected in the Office Action under 35 U.S.C. §103 as purportedly being unpatentable over *Pennell*. Applicant submits that the pending dependent claims 2-10 contain all features of their respective independent claim 1. Since claim 1 should be allowed, as argued hereinabove, pending dependent claims 2-10 should be allowed as a matter of law for at least this reason. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

Claim 11

Claim 11 presently stands rejected under 35 U.S.C. §102 as allegedly being anticipated by *Pennell*. Claim 11 reads as follows:

11. A system for supporting wireless transmission equipment, comprising:
a foundation;
a guyed tower fixedly attached to said foundation; and
a means for absorbing bending moments that act on said guyed tower, said absorbing means fixedly attached to said foundation and extending through a middle region of said guyed tower. (Emphasis added).

For at least the reasons set forth hereinabove in the arguments for allowance of pending claim 1, Applicant asserts that *Pennell* fails to disclose a single pole tower erected within a guyed tower. Moreover, Applicant asserts that the Office Action fails to establish that at least the features of

claim 11 highlighted hereinabove are disclosed by *Pennell*. Accordingly, Applicant respectfully submits that the rejection of claim 11 is improper and should be withdrawn.

Claims 12-18

Claims 13-18 presently stand rejected in the Office Action under 35 U.S.C. §102 as allegedly being anticipated by *Pennell*. Further, claim 12 presently stands rejected in the Office Action under 35 U.S.C. §103 as purportedly being unpatentable over *Pennell*. Applicant submits that the pending dependent claims 12-18 contain all features of their respective independent claim 11. Since claim 11 should be allowed, as argued hereinabove, pending dependent claims 12-18 should be allowed as a matter of law for at least this reason. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

Claim 19

Claim 19 presently stands rejected under 35 U.S.C. §103 as allegedly being unpatentably over *Pennell*. Claim 19 reads as follows:

19. A method for supporting wireless communication equipment, comprising the steps of:
erecting a guyed tower;
fixedly attaching said guyed tower to a foundation;
erecting a pole tower within a middle region of said guyed tower; and
fixedly attaching said pole tower to said foundation. (Emphasis added).

For at least the reasons set forth hereinabove in the arguments for allowance of pending claim 1, Applicant asserts that *Pennell* fails to suggest at least the features of claim 19 highlighted hereinabove. Accordingly, Applicant respectfully submits that the rejection of claim 19 is improper and should be withdrawn.

Claim 20

Claim 20 presently stands rejected under 35 U.S.C. §103 as allegedly being unpatentable over *Pennell*. Claim 20 recites the step of “erecting a pole tower within a middle region of said guyed tower.” For at least the reasons set forth hereinabove in the arguments for allowance of pending claim 1, Applicant asserts that *Pennell* fails to suggest such features. Accordingly, Applicant respectfully submits that the rejection of claim 20 is improper and should be withdrawn.

Claims 21-28

Claims 21-28 presently stand rejected in the Office Action under 35 U.S.C. §103 as purportedly being unpatentable over *Pennell*. Applicant submits that the pending dependent claims 21-28 contain all features of their respective independent claim 20. Since claim 20 should be allowed, as argued hereinabove, pending dependent claims 21-28 should be allowed as a matter of law for at least this reason. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

Claim 29

Claim 29 has been newly added via the amendments set forth herein. Claim 29 reads as follows:

29. A method for increasing a load capacity of an erected guyed tower, comprising the steps of:
erecting a pole tower within an inner region of said guyed tower; and
attaching said pole tower to a foundation.

For at least the reasons set forth hereinabove in the arguments for allowance of pending claim 1, Applicant asserts that *Pennell* fails to disclose or suggest each of the features of claim 29 set forth hereinabove. Accordingly, Applicant respectfully submits that the cited is insufficient for rejecting claim 29 under 35 U.S.C. §102 and/or §108.

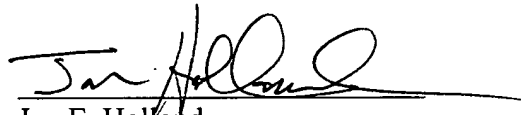
CONCLUSION

Applicant respectfully requests that all outstanding objections and rejections be withdrawn and that this application and all presently pending claims be allowed to issue. If the Examiner has any questions or comments regarding Applicant's response, the Examiner is encouraged to telephone Applicant's undersigned counsel.

Respectfully submitted ,

**THOMAS, KAYDEN, HORSTEMEYER
& RISLEY, L.L.P.**

By:


Jon E. Holland
Reg. No. 41,077

100 Galleria Parkway, N.W.
Suite 1750
Atlanta, Georgia 30339
(256) 704-3900 Ext. 103